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EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Note by the Secretary-General

1. Pursuant to paragraph 3 of Commission on Human Rights resolution 1990/25, in which the Commission invited the human rights treaty monitoring bodies to review the study on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations human rights instruments (A/44/668) and to comment on the relevant conclusions and recommendations, the Secretary-General made the study available to the various treaty bodies.

2. While all of the treaty bodies supported the general thrust of the study and endorsed the recommendations and conclusions, the Human Rights Committee adopted detailed comments thereon. Those comments are attached in an annex to this document.

3. It may also be recalled that the study was reviewed by the Chairpersons of the human rights treaty bodies at their third meeting, held from 1 to 5 October 1990. The comments of the Chairpersons may be found in document A/45/636, which is also before the Commission under the present agenda item.

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ANNEX

STUDY ON POSSIBLE LONG-TERM APPROACHES TO ENHANCING THE EFFECTIVE OPERATION OF EXISTING AND PROSPECTIVE BODIES ESTABLISHED UNDER UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Comments by the Human Rights Committee

In its resolution 1990/25, the Commission on Human Rights, at its forty-sixth session, decided, inter alia, to invite "the treaty bodies to review the study on possible long-term approaches, to consider which conclusions and recommendations are of relevance to their respective spheres and to send their comments to the Secretary-General". Pursuant to that resolution the Human Rights Committee reviewed the study, contained in document A/44/668, at its thirty-ninth session, held in July 1990. Its comments on the conclusions and recommendations of the study, as contained in the summary of document A/44/668, are provided below:

The Committee agrees that reporting procedures are of central importance to the international human rights régime. At the same time it believes that attention should also be drawn to the vital importance of the domestic procedures used in preparing reports. In particular, it is important, in the process of preparing reports, to take the opportunity to notify as many sectors of the community as possible of the preparation of the report (para. 2).

The Committee, bearing in mind its own experience in this regard, supports the suggestion to grant a degree of discretion as to the periodicity of reporting to monitoring bodies to be established under future treaties. It considers that the reporting periodicity should not extend beyond five years (para. 4).

While overlapping reporting requirements do pose a problem and should be kept to a minimum, resort by a State Party to simple cross-referencing will not adequately meet the needs of the treaty bodies. The meeting of chairpersons should consider the matter and make recommendations on the subject to the various treaty bodies as to the type of cross-referencing that may be appropriate and acceptable. For this purpose the report of the Secretary-General showing the extent of overlapping of issues dealt with in international instruments of human rights, contained in document HRI/MC/1988/L.3, should be resubmitted to the forthcoming meeting of chairpersons. Consideration could also be given to making that document available to States Parties. Assistance to States Parties in preparing reports, at the national, subregional or regional level, should be a priority area for the United Nations advisory services and technical assistance programme. In addition, the consolidated guidelines for the initial part of State Party reports, as well as the manual being prepared by UNITAR in collaboration with the Centre for Human Rights with a view to assisting States in fulfilling their reporting obligations, should be finalized and made available to the States Parties as soon as possible (paras. 5 and 6).

The Committee strongly supports the view that the activities of human rights treaty bodies should be financed through the regular budget of the United Nations (paras. 8 to 14).

The Committee agrees that Secretariat staffing levels as well as financial resources to support the activities of the treaty bodies are grossly inadequate, particularly in comparison with the level of support available for activities for which funds are required from other international institutions. If the treaty bodies are to be able to cope successfully with their growing work-loads, such support must clearly be increased. The Committee noted further that despite the importance of human rights which, as the Secretary-General has recognized, played "a crucial role in maintaining the stability of national and international society", the human rights sector was receiving less than 1 per cent of the regular budget of the United Nations (para. 16).

The Committee supports the recommendations in paragraph 17. It has been the Committee's practice to provide such lists shortly before consideration of the report. The Committee also supports the recommendation in paragraph 18.

The Committee considers that its practice of recording observations by members at the conclusion of the consideration of a State Party report has been highly useful both to the Committee and to the States Parties and would accordingly recommend the adoption of a similar practice to other treaty bodies (para. 19).

The maximization of normative consistency in respect of human rights standards is clearly desirable. However, owing to the existing staff constraints progress in this respect can only be envisaged over the longer term as increased Secretariat staff resources are made available (paras. 20 and 21).

The Committee is satisfied with the format of its annual report but agrees that, to promote greater awareness of the work of the treaty bodies, it might be helpful if the annual reports could be synthesized from time to time and made available in more readable form for distribution to the general public. The Committee also shares the view expressed in the study on the need for giving greater publicity to the work of the treaty bodies, particularly through the United Nations Information Centres (para. 22).

Based on its experience, the Committee agrees that the functioning of monitoring bodies would be greatly assisted if the relevant travaux préparatoires were made available in accessible form (para. 29).

The Committee, while appreciating the concerns voiced in paragraph 168 of the study, is of the view that preference should not be given in the future to non-binding instruments over binding instruments and suggests that whenever possible the supervisory or monitoring functions established under new human rights treaties be assigned to appropriate existing treaty bodies. The Committee considers that some of the existing treaty bodies would have the competence to monitor the implementation of more than one international human rights instrument and agrees that it would be preferable that new instruments were adopted, as far as possible, as protocols to existing instruments. Should such new responsibilities be contemplated, the relevant monitoring bodies should be consulted and appropriate arrangements, including for staff and financial support, be made (paras. 28, 30, 31, 32 and 33).